

**DEPARTMENT OF FOOD AND AGRICULTURE
PROPOSED AMENDMENT OF THE REGULATIONS
Title 4, Division 9, Chapter 6, Article 5
Engine Fuel Standards**

**INITIAL STATEMENT OF REASONS/
PLAIN ENGLISH POLICY STATEMENT OVERVIEW**

Background

The overall mission of weights and measures is to preserve and maintain the standards of measurement essential in providing a basis of value comparison for the consumer and fair competition for industry. The principal task of the Petroleum Products Program is to regulate and enforce the advertising, labeling and quality specifications for motor oils, engine fuels, gear oils, brake fluids, automatic transmission fluids, and engine coolants.

The Legislature has charged the Department of Food and Agriculture (Department) with the responsibility of enforcing weights and measures law within California (Business and Professions Code (B & P Code), Division 5, Section 12103.5). The Secretary of the Department of Food and Agriculture (Secretary) is granted the authority to adopt such regulations as are reasonably necessary to carry out the provisions of the Business and Professions Code, Division 5, Sections 12027, 13440 and 13450.

The Department and the Division of Measurement Standards' Petroleum Products Program are charged with the responsibility to establish specifications for spark-ignition engine fuels and compression-ignition engine fuels sold in California. The Department is required to adopt, by reference, the latest standards of a recognized consensus writing organization such as the American Society for Testing and Materials (ASTM). The Department has adopted ASTM standards for gasoline, diesel fuel, kerosene, and fuel oil. However, several manufacturers of engine fuels are evaluating new engine fuel technology for which there are no recognized consensus organization standards.

Description of the Public Problem, Administrative Requirements, or Other Conditions or Circumstances the Regulations are Intended to Address

The Department and the Division of Measurement Standards' Petroleum Products Program are charged with the responsibility to establish specifications for engine fuels sold in California.

The Department is required to adopt, by reference, the latest standards of a recognized consensus organization or standards writing organization, such as the American Society for Testing and Materials (ASTM). The Department has adopted ASTM standards for gasoline, diesel fuel, kerosene, and fuel oil.

In the absence of such standards, the Department is still statutorily required to establish specifications for engine fuels. (B & P Code Sections 13440 and 13450). According to the legislative history of 1993 amendments to Business and Professions Code Section 13401, "AB 2154 requires the Department of Food and Agriculture to establish specifications for gasoline and other automotive spark-ignition engine fuels, and for compression-ignition engine fuel, kerosene and fuel oil. In adopting these specifications, it is the intent of the Department to adopt by reference the latest standards of the American Society for Testing and Materials (ASTM). If there are no ASTM standards for a particular fuel, the Department shall adopt an interim standard established by a recognized consensus organization or standards writing organization. If the ASTM later adopts a standard, it shall be the recognized standard." (Historical and Statutory Notes, West's Annotated California Codes, 2001 Cumulative Pocket Part, B & P Code, Sec. 13401.)

Assembly Bill 1618 (AB 1618, Stats. 2001, Ch. 596 - Matthews) authorizes the Department to grant a variance for developmental engine fuels providing specific conditions are met. Sales of fuels authorized by the Department are not subject to restrictions imposed upon the sale of non-conforming fuel products as set forth in Business and Professions Code Sections 13441, 13442 and 13451.

Manufacturers of developmental engine fuels will be permitted to market their fuels under conditions outlined in the authorization granted by the Department. By granting authorization, the Department will initiate a process resulting in the creation of chemical and performance data required for the approval of a consensus standard specification related to a particular developmental engine fuel. It can take two years or more to adopt consensus standards through an organization such as ASTM. The proposed regulation would allow the Department to grant authorization to use developmental engine fuels for the sole purpose of evaluating new engine fuel technology, with the additional benefit of improved air quality.

Specific Purpose of the Regulation: Necessity

Assembly Bill 1618 (AB 1618, Stats. 2001, Ch. 596 - Matthews), signed into law on October 9, 2001 as an urgency statute, placed Section 13405 in the Business and Professions Code, Division 5, Chapter 14. It gives the Department the authority to grant a variance from the specifications of Chapter 14 for developmental engine fuels if specified conditions are met.

This proposal would enable the Department to authorize the sale of these fuels to selected fleets of vehicles and other equipment, including diesel power generators, for the purpose of gathering the data needed to assist in the development of consensus standards for these fuels. In the absence of the proposed regulation, such sales are prohibited. The proposed regulation will therefore enable the Department to fulfill its statutory obligation to establish standards for developmental engine fuels, and encourage the development and use of alternative fuels to maintain air quality.

Estimated Cost or Savings to Public Agencies or Affected Private Individuals or Entities

The Department has initially determined that this proposal does not impose a mandate on local agencies or school districts. The Department has also initially determined that no costs or savings to any other state agency, no reimbursable costs or savings under Part 7 (commencing with Section 17500) of Division 4 of the Government Code to local agencies or school districts, no nondiscretionary costs or savings to local agencies or school districts, and no costs or savings in Federal funding to the State will result from the proposed action.

The cost impact of the changes in the regulation on private persons or businesses is expected to be minor or insignificant.

The Department has also made an initial determination that the action will not have a significant statewide adverse economic impact on housing costs or California business, including the ability of California businesses to compete with businesses in other states.

Assessment Regarding Effect on Job/Businesses

The Department has made an assessment that the proposed regulation may: (1) create jobs within California; (2) create new businesses within California; or (3) affect the expansion of businesses currently doing business in California.

Alternatives Considered

The Secretary must determine that no reasonable alternative considered by the agency or that has otherwise been identified and brought to the attention of the agency would be as effective in carrying out the purpose for which the action is proposed or would be as effective and less burdensome to the affected private persons other than the proposed action.

Technical, Theoretical, and/or Empirical Study, Reports or Documents

Assembly Bill 1618 (AB 1618, Matthews), signed into law on October 9, 2001 as an urgency statute, placed Section 13405 in the Business and Professions Code, Division 5, Chapter 14. It gives the Department the authority to grant a variance from the specifications of Chapter 14 for developmental engine fuels if specified conditions are met. This proposal would enable the Department to authorize the sale of these fuels to selected fleets of vehicles and other equipment, including diesel power generators, for the purpose of gathering the data needed to assist in the development of consensus standards for these fuels. In the absence of the proposed regulation, such sales are prohibited. The proposed regulation will therefore enable the Department to fulfill its statutory obligation to establish standards for developmental engine fuels, and encourage the development and use of alternative fuels to maintain air quality.